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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,649	12/15/2000	Susan Brownbill	J3519(C)	2275

201 7590 09/26/2002

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/26/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,649

Applicant(s)

BROWNBILL ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claims 1-16 are pending in this application.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim et al. (US' 5,961,666).

Lim (US' 666) teaches hair dyeing and bleaching composition (see col. 2, line 35-38). The composition comprises oxidizing agent such as hydrogen peroxide as claimed in claim 3 (see col. 4, line 42), ammonium hydroxide as a buffering agent as claimed in claim 4 (see col. 6, line 5), cholesterol (see col. 3, line 48), surfactants as claimed in claim 5 (see col. 3, lines 40-41). Lim also teaches dyeing and bleaching composition as claimed in claims 7 and 8 wherein the composition having a pH in a range of 5 to 11 which is overlapped with the claimed range as claimed in claims 1, 2, 13-14 and 16 (see col. 6, lines 1-2). Lim also teaches a method for dyeing hair as claimed in claims 6, 10-12 and 15. The method comprises the step of mixing the hair dyeing preparation with an oxidant shortly before use, or at the time of applying the mixture onto the hair (see col. 6, lines 21-23). Lim further, teaches kits that provide containers for housing the dye precursors and oxidizing agents as claimed in claims 9 and 11 (see col. 6, lines 49-63).

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The claims differ from the reference by reciting hair-bleaching composition. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition because the reference teaches similar ingredients to those recited by the claims suitable for inclusion in a bleaching composition. The reference further, referred to the composition as a dyed bleached composition (see col. 7, Table 2 lines 45) and, thus, a person of ordinary skill in the art would expect such a composition to have similar properties to those claimed, absent unexpected results.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US' 5,851,237).

Anderson (US' 237) teaches a method for oxidative hair dye and dye composition. The dye composition comprises oxidizing agent such as hydrogen peroxide as claimed in claim 3, (see col. 9, lines 2-3), quaternary ammonium compounds as a buffering agent as claimed in claim 4 (see col. 9, lines 37-39), cholesterol (see col. 8, line 6), surfactants as claimed in claim 5 (see col. 7, line 67). Anderson also teaches a composition as claimed in claims 7 and 8, wherein the composition having a pH in a range of 5 to 11 which is overlapped with the claimed range as claimed in claims 1, 2, 13-14 and 16 (see col. 10, lines 41-42). Anderson also teaches a method for dyeing hair. The method comprises the step of mixing the hair dyeing preparation with an oxidant shortly before use, or at the time of applying the mixture onto the hair as claimed in claims 6, 10-12 and 15 (see col. 10, lines 58-61). Anderson further, teaches kits that provide containers for housing the dye precursors and oxidizing agents as claimed in claims 9 and 11 (see col. 11, lines 36-44).

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The claims differ from the reference by reciting hair-bleaching composition. However, Anderson teaches that due to the presence of oxidizing agent in the composition that some of the natural melanin properties of the hair may be bleached (see col. 1, lines 33-35).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition because the reference teaches similar ingredients to those recited by the claims suitable for inclusion in a bleaching composition. The reference further, referred to the composition as a dyed bleached composition (see col. 1, lines 33-35) and, thus, a person of ordinary skill in the art would expect such a composition to have a bleaching properties similar to those claimed, absent unexpected results.

Response to Applicant's Arguments

3. Applicant's arguments filed July 8, 2002 have been fully considered but they are not persuasive for the reasons given in the above Office action as well as the reasons set forth in the previous Office action in paper No. 9, dated 2/21/2002.

4. This is a continuation of applicant's earlier Application No. 09/737,649. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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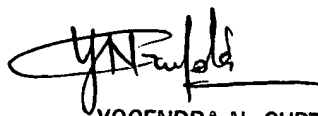
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo
September 22, 2002



YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700